BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Case: 91-102-A 92-102-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein requested a variance to permit a side yard setback of 10 feet in lieu of the required 30 feet, as more particularly described in Petitioners' Exhibit 1.

The Petitioners were represented by James D. O'Connor, Esquire. Paul Botzler appeared and testified on behalf of the property owner, Botzler Associates Limited Partnership-Pulaski. Mark Robel of Vitti, Robel and Associates, Inc., Engineering and Surveying, also appeared and testified on behalf of the Petitioners. There were no Protestants.

Testimony indicated that the subject property known as 7601 Pulaski Highway, consists of 2.066 acres, plus or minus. The zoning on the property is mixed. It is primarily BR-CS-1 with some areas of BR and ML-IM. The property is improved with a onestory concrete block and metal building. The building is currently empty but was previously used as a truck sales and display center for International Harvester. The Petitioners are in the process of subdividing the property into two approximately equal size lots as more fully detailed on Petitioners' Exhibit 1, a plat entitled Plan to Accompany Petition for Zoning Variance Hearing, No. 7601 Pulaski Highway. The proposed subdivision line would require a 10 foot side yard setback for the existing building on Lot 2 as subdivided, as shown on Exhibit 1.

Testimony indicated that the Petitioners have a commitment from a tenant to lease the building on Lot 2 as subdivided for use as a office and distribution center for an equipment supply company. Public sewer and all necessary utilities are already available and installed for the site. The tenant's use would require no construction or other improvements at the site. Testimony indicated that a subdivision line providing for a 30 foot side yard setback would present practical difficulty because of the existing location of the building and specified setbacks on the subdivided Lot 1.

The Office of Planning and Zoning had no comments regarding the requested variance. The Fire Department noted that the existing structures and buildings on the site would have to comply with the applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 Edition. The Department of Environmental Protection and Resource Management, Division of Ground Water Management, noted that Hydrogeological Study and an Environmental Effects Report would have to be submitted if submission of plans to CRG is required. The improvements are existing and no construction is contemplated in Sconnection with the variance.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md.App. 28 (1974).

Strict application of the setback regulation would cause practical difficulty to the Petitioner and this property. It is clear from the testimony that if the requested variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertising, posting of the property and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of Alaumber, 1991, that the Petition for Variance to permit a side yard setback of 10 feet in lieu of the required 30 feet be and is hereby GRANTED.

Zun 4 kg Kotrow TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

(A) c:/wp5l/civ/botzler.mem

Signature

City and State

Petition for Variance

to the Zoning Commissioner of Baltimore County The undersigned, legal owner(s) of the property situate in Baltimere County and which is described in the description and plat attached hereto and made a part hereof, hereby pention for a Variance from Section 238.2: to allow a 10' Sideyard building setback in lieu of the required 30'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Strict compliance with the applicable 30' side yard set back, from the existing building, would result in practical difficulty in the profitable, practical, and permitted use of the property.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting etc. upon thing of this petition, and further agree to and are to be bound by the roung regulations and restrictions of

Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

A We do solemaly declare and affirm, under the penalties of parjury, that I we are the ligal owner(s) of the property wnich is the subject of this Petition. Contract Furchaser/Lessee: Legai Ownerysi 🤈 Botzlet Asso. Ad. Partnership-Pulaski (Type or Print Name) --------Paul W. Botzler, General Partner (1) [c or Print Rame). ------Signature 

Attorney for Petitioner: James D. O'Conner P.O. Box 226 592-5020 (Type or Print Name) Those No. Comes de Olonner Glen Arm, MD 21057 City and State 100 West Rd. #211 Hanny obtiess and pulper of the of legal owner, contract purchaser or representative to be contacted Towson, MD 21204

Paul W. Botzier P.O. Box 226 21057 592-5020 Attorney's Telephone No.: 321-0595 OSDER RECEZZO FOR FILING

ESTIMATED LENGTH OF HEARING (-1/2HR. +1HR. AVAILABLE FOR HEARING HON. /TUES. /WED. - NEXT THO MONTHS ALL OTHER REVIEWED BY: NEW DATE S/22/2

**ADDRESS** 

## Engineering & Surveying Lutherville, Maryland 21093 1717 York Road, Suite 2B 252-4552

ZONING DESCRIPTION #7601 PULASKI HIGHWAY BALTIMORE COUNTY, MARYLAND

Beginning at a point on the North side of 68th street (75 Foot Right-Of-Way) at a distance of 75 feet South of the centerline of Pulaski Highway (150 Foot Right-Of-Way), thence running with the Southerly margin of Pulaski Highway the following

courses and distances: 1) North 58 Degrees 55 Minutes East, 300.00 feet, thence:

2) South 31 Degrees OS Minutes East, 300.00 feet, thence:

3) South 58 Degrees 55 Minutes West, 299.89 feet, thence:

4) By a line curving to the right and having a radius of 962.50 feet and a chord bearing North 31 Degrees 30 Minutes 27 Seconds West, 14.25 feet, thence:

5) North 31 Degrees O5 Minutes West, 285.75 feet to the place of beginning as recorded in deed Liber 5838, Folio 139.

Also known as #7601 Pulaski Highway and located in the 15th Election District.

November 5, 1991

James D. O'Connor, Esquire 100 West Road, Suite 211 Towson, Maryland 21204

111 West Chesapeake Avenue

Towson, MD 21204

SE/Corner Pulaski Highway and 68th Street (7601 Pulaski Highway) 15th Election District - 7th Councilmanic District Case No. 92-102-A

TMK:bjs

File

TIMOTHY M. KOTROCO Deputy Zoning Commissioner

92-102ºA BR-CS-SCALE ! N. LOY #7601 PULASKI HIGHWAY

Patitioners PROTESTANT (S) SIGN-IN SHEET

| an W. Botzler                      | POBCX 226 GLEN LAM MD.<br>SUITE 2-B              |
|------------------------------------|--|
| and W. Botzler<br>DAVID E. BOTZLER | P.O. BOX 226 GLEN ARM MD.                        |
| DAN L. ROBEL (VAA)                 | SUITE 2-B<br>1717 YORA RD LUTHERWILE, M.D. 21093 |

| District 19th Posted for: LANGUECE | Date of Posting 10/5/91          |
|------------------------------------|----------------------------------|
|                                    | Linestad Contraction - Dules Kil |
| Location of property: 5 1= 1 conse | Fales lei Hwy. + 67 of st.       |
| Location of Signs - Figure 4       | ntereston of Policki Y G FA      |
| opine to 12 res duty               | on treperty of Selectioner       |

MINIS DEPARTMENT OF BALTIMORE COUNTY

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

887-3353

RE: PETITION FOR ZONING VARIANCE Botzler Associates Limited Partnership - Petitioner

Dear Mr. O'Connor:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Muthy Kotrow for Baltimore County

cc: People's Counsel

Sumber of Signer \_\_\_\_\_

Avenue

Inc.

111 West Chesapeake Avenue

Towson, MD 21204

111 West Chesapeake Avenue Towson, MD 2120+ 9 PUBLIC/ P. O. Box 226 Glen Arm, MD 21057 Case Number: 92-102-A ATION 7601 Pulaski Highway Dear Petitioner(s):

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning 887 3353 Botzler Associates Limited Partnership-Pulaski SEC Pulaski Highway and 68th Street 15th Election District - 7th Councilmanic Petitioner(s): Botzler Associates Limited Partnership-Pulaski HEARING: TUESDAY, OCTOBER 22, 1991 at 2:00 p.m. THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING. Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested. BALTIMORE COUNTY, MARYLAND cc: James D. O'Conner, Esq.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning 111 West Chesapeake Avenue

October 8, 1991

James D. O'Conner, Esquire 100 West Road, #211 Towson, MD 21204

> RE: Item No. 109, Case No. 92-102-A Petitioner: Botzler Assoc. Ltd, et al Petition for Variance

887-3353

Dear Mr. O'Conner:

Towson, MD 2120 i

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committe Coments Date:October 8, 1991 Page 2

Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the peition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Paul W. Botzler Botzler Assoc. Ltd P.O. Box 226

Glen Arm, MD 21057

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

THE

CERTIFICATE

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-102-A SEC Pulaski Highway and 68th Street 7601 Pulaski Highway 15th Election District - 7th Councilmanic Petitioner(s): Botzler Associates Limited Partnership-Pulaski HEARING: TUESDAY, OCTOBER 22, 1991 at 2:00 p.m.

Variance to allow a 10 ft. side yard building setback in lieu of the required 30 ft.

cc: Botzler Associates Limited Partnership-Pulaski James D. O'Conner, Esq.

Zoning Commisioner
County Office Building
111 West Chesupeake Avenue
Towson, Maryland 21204 04A0H#012Wm1CHRt BA CO11:30AM10-16-91 Please Make Checks Payable To: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204 Account: R 001-6150 STATE OF A PARTY PF 100 CONTROL FILARITHE FILE. as lowers wellador const.  $\sigma_{1} 25.05$ 3010 : 0175.00 THE REPORT OF CHARGES DUTY OF ARMOUNT

> Please Make Chacks Philade 312 Settonore County \$175.00 BA COU3:27PM08-29-91

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: October 9, 1991

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

Rahee J. Famili SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: September 10, 1991

There are no comments for item numbers 81, 102, 103, 104, 109, 110, 111, 112 and 115.

RJF/lvd

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this

29th day of August, 1991.

Petitioner: Botzler Assoc. Ltd, et al Petitioner's Attorney: James D. O'Conner BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 25, 19>2
Zoning Administration and

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

Development Management

SUBJECT: Christ-Lutheran Church, Item No. 71
Fitzpatrick Property, Item No. 82
Lorenz Construction Co., Item No. 105
Botzler Associates, Item No. 109
Stupalski Property, Item No. 113
Trent Property, Item No. 119
Boggs Property, Item No 123
Duvall Property, Item No. 126

In reference to the Petitioner's request, staff offers no

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/pat
ITEMNO26/TXTROZ

- qli-l

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

September 11, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #109, Zoning Advisory Committee Meeting of September 10, 1991, Botzler Associates Limited Partnership-Pulaski, SEC Pulaski Highway and 68th Street (#7601 Pulaski Highway), D-15, Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Impact Review at 887-3980.

In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.

\$SSF:rmp 109ZNG/GWRMP

> RECEIVED ZOMMO

Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 21204-5500 (301) 887-4500

SEPTEMBER 16, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: BOTZLER ASSOCIATES LIMITED

I ocation: #7601 PULASKI HIGHWAY

Item No.: 109 Zoning Agenda: SEPTEMPER 10, 1991

Oentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER:

Planning Group

Fire Prevention Bureau

Special Inspection Division

JP/KEK

EALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 24, 1991
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for September 10, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 81, 102, 103, 104, 110, 111, 112, 114, and 115. Also, we have no comments for Case No. R-91-119.

For Item 106, comments will be made at the County Review Group meeting.

For Item 108, the County Review Group comments remain in effect.

For Item 109, comments will be reserved until the County Review Group meeting.

ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

RWB:s

The Zering Commissioner of Settimore County, by authority of the Zoning Act and Requisitors of Battmore County will had a public hearing on the property identified herein in Room 105 of the County Office Building, located at 111 W. Cheespeake Averue in Towers, Maryland 21204 as follows:

Case Number: 92-102-A SEC Pulsets Highway and 68th Street.
7501 Pulsets Highway and 68th Street.
7501 Pulsets Highway.
15th Election District.
7th Councilmentic Pulsets Houses Highway.
Botzler Associates Limited Partnership-Pulsets Hearing Date: Tuesday, Cotober 22, 1991 at 2:00 p.m.

CERTIFICATE OF PUBLICATION

TOWSON, MD..

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on \_\_\_\_\_ 2 \_\_\_ 19 \_\_\_.

THE JEFFERSONIAN,

5. Zeke Olm Publisher

\$ 35.18

